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MAY 28 2008

OFFICE OF PETITIONS

In re Application of Kashima et al.	:	
Application No. 09/870,009	:	Decision on Petition
Filing Date: May 30, 2001	:	
Attorney Docket No. JP920000069US1	:	

This is a decision on the petition under 37 CFR 1.181, filed January 25, 2008, to withdraw the holding of abandonment.

The petition is **granted**.

Facts:

On October 29, 2007, the Office mailed a decision by the Board of Patent Appeals and Interferences. The decision affirmed the rejection of all the claims under 35 U.S.C. 101.

A Request for Continued Examination and amendment were filed on Monday, December 31, 2007.

A Notice of Abandonment was mailed January 8, 2008. The Notice states the application is abandoned because the period for seeking court review of the Board decision has expired and none of the claims have been allowed.

Petitioner requests withdrawal of the holding of abandonment.

Discussion:

The filing of the Request for Continued Examination was sufficient to reopen prosecution and prevent the abandonment of the application.

Section XI(A) of MPEP 706.07(h) states,

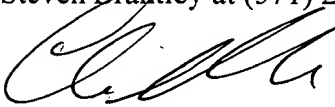
The filing of an RCE (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit (Federal Circuit) or the commencement of a civil action in federal district court, will also result in the finality of the rejection or

action being withdrawn and the submission being considered. Generally, the time period for filing a notice of appeal to the Federal Circuit or for commencing a civil action is within two months of the Board's decision. See 37 CFR 1.304 and MPEP § 1216. Thus, an RCE filed within this two month time period and before the filing of a notice of appeal to the Federal Circuit or the commencement of a civil action would be timely filed.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1631 will be informed of the instant decision and the application, including the RCE and amendment filed December 31, 2007, will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'C. Brantley', is positioned above the printed name.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions